

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DYSON TECHNOLOGY LIMITED
and DYSON, INC.,

Plaintiffs,

V.

MAYTAG CORPORATION,

Defendant.

C.A. No. 05-434-GMS

NOTICE OF SUBPOENA

PLEASE TAKE NOTICE that plaintiffs Dyson Technology Limited and Dyson, Inc. have served the attached subpoena upon Walmart Stores, Inc..

YOUNG CONAWAY STARGATT & TAYLOR, LLP

C. Barr Flinn (No. 4092)
John W. Shaw (No. 3362)
Adam W. Poff (No. 3990)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19801
(302) 571-6600
apoff@ycst.com

OF COUNSEL:

Garrard R. Beeney
Richard C. Pepperman, II
James T. Williams
Keith McKenna
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
(212) 558-4000

Steven F. Reich
Jeffrey S. Edelstein
Monica Y. Youn
MANATT, PHELPS & PHILLIPS, LLP
7 Times Square
New York, New York 10036
(212) 790-4500

Attorneys for Plaintiffs Dyson Technology Limited and Dyson, Inc.

Dated: August 2, 2006

**Issued by the
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DYSON TECHNOLOGY LIMITED
and DYSON, INC.,

Plaintiffs,

v.

MAYTAG CORPORATION,

Defendant.

SUBPOENA IN A CIVIL CASE

Case Number: 05-434-GMS
United States District Court
for the District of Delaware

TO: Walmart Stores, Inc., c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, DE 19801

- ☐ YOU ARE COMMANDED to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM	
	DATE AND TIME	

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or object At the place, date, and time specified below (list documents or objects): **See Attachment A.**

PLACE	DATE AND TIME
Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 17th Floor, PO Box 391, Wilmington DE 19899-1031 Attention: C. Barr Flinn, Esquire	Tuesday, August 15, 2006 by 5:00 P.M.

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure 30(b)(6)/

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE AND TIME
 , Attorneys for Plaintiff(s) Adam W. Poff, Esq.	August 1, 2006

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER
Adam W. Poff, Esquire, Young Conaway Stargatt & Taylor, LLP, The Brandywine Building, 17th Floor, PO Box 391, Wilmington DE 19899-1031, Tel. 302-571-6600

PROOF OF SERVICE

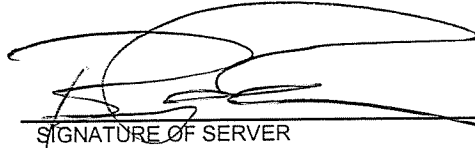
DATE <u>8/1/06</u> PLACE <u>1209 ORANGE ST WILM DE 19801</u>	
SERVED <u>WALMART STORES INC</u>	
SERVED ON (PRINT NAME) <u>SCOTT LASCALA</u>	MANNER OF SERVICE <u>BY HAND AT 3:54 PM</u>
SERVED BY (PRINT NAME) <u>BRIAN CROSSAN</u>	TITLE <u>PROCESS SERVER</u>

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

8/1/06
DATE


SIGNATURE OF SERVER

230 N MARKET ST, WILM DE 19801
ADDRESS OF SERVER
RULE 45, Federal Rules of Civil Procedure, Parts C & D:**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in

Person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or

(iv) subjects a person to undue burden

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena, or, if the part in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) DUTIES IN RESPONDING TO SUBPOENA.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

ATTACHMENT A

DEFINITIONS

1. "Communication" means every manner or means of disclosure, transfer or exchange, and every disclosure, transfer or exchange of information, whether orally, by document, face-to-face, by telephone, mail, e-mail, personal delivery or otherwise.
2. "Complaint" refers to plaintiffs' complaint in this action filed on June 27, 2005, in the United States District Court for the District of Delaware, Case No. 05-434 (GMS).
3. "Concerning" means directly or indirectly mentioning, constituting, discussing or describing, relating to, pertaining to or being connected with a stated subject matter or any aspect thereof.
4. "Document" has the broadest meaning accorded to it by Rule 34 of the Federal Rules of Civil Procedure and includes, without limitation, any recording in any tangible form of any information, whether handwritten, typed, printed, stored on computer disks, tapes or databases (including electronic files and e-mail), or otherwise reproduced. "Document" also includes all drafts and copies that are not identical to the original.
5. "Dyson" refers to plaintiffs Dyson Technology Limited and Dyson, Inc. and all of their subsidiaries, affiliates, parents, divisions and joint ventures, and includes all officers, employees, agents, representatives, contractors or consultants of those entities.
6. "Hoover" refers to The Hoover Company and all of its subsidiaries, affiliates, parents, divisions and joint ventures, including all officers, employees, agents, representatives, contractors or consultants of those entities.
7. "Hoover Fusion vacuum cleaner" refers to the vacuum cleaner product sold by Wal-Mart as the Hoover "Fusion" and discussed in Paragraph 12 of the Complaint.

8. "Maytag" refers to defendant Maytag Corporation and all of its subsidiaries, affiliates, parents, divisions and joint ventures, and includes all officers, employees, agents, representatives, contractors or consultants of those entities.

9. "Wal-Mart" refers to Wal-Mart Stores, Inc. and all of its subsidiaries, affiliates, parents, divisions and joint ventures, including but not limited to Wal-Mart.com and all officers, employees, agents, representatives, contractors or consultants of those entities.

INSTRUCTIONS

1. Documents should be produced as they are kept in your files in the ordinary course of business or shall be organized and labeled to correspond with the requests below. If documents are produced as they are kept in your files, sufficient information should be provided to permit plaintiffs to identify the source of particular documents from within the files.

2. All drafts of responsive documents, as well as non-identical copies, should be produced. Identical copies of a document that is being produced need not also be produced.

3. In construing these requests: (i) the singular shall include the plural and the plural shall include the singular; (ii) masculine, feminine or neuter pronouns shall not exclude other genders; (iii) the conjunctions "and" and "or" shall read either disjunctively or conjunctively so as to bring within the scope of this request all information that might be construed to be outside its scope; and (iv) the word "any" shall include, without limitation, "each and every."

4. If you claim that any document requested is immune from disclosure (in whole or in part) under any claim of privilege or immunity, submit a written statement for each document withheld that: (i) identifies the person(s) who prepared or authored the document and all recipients or addressees, including recipients of copies; (ii) specifies the date on which the document was prepared; (iii) describes the nature of the document (e.g., letter, memorandum,

notes, e-mail, etc.); (iv) identifies the subject matter of the document; (v) if the document reflects or refers to a meeting or conversation, identifies all persons who were present at or parties to the meeting or conversation; and (vi) sets forth the nature of the basis for the claim of privilege or immunity asserted.

5. These requests apply to the time period January 1, 2004 to the present.

DOCUMENTS REQUESTED

1. All communications between Wal-Mart and Maytag or Hoover concerning (a) the Complaint; (b) Dyson; or (c) the Hoover Fusion vacuum cleaner, including without limitation communications between Wal-Mart and Maytag or Hoover that pre-date but ultimately led to the sale of Hoover Fusion vacuum cleaners by Wal-Mart.

2. Documents sufficient to show, by month, Wal-Mart's sales of the Hoover Fusion vacuum cleaner.

3. All agreements between Wal-Mart and Maytag or Hoover concerning the Hoover Fusion vacuum cleaner or "Hoover" branded vacuum cleaners generally.

CERTIFICATE OF SERVICE

I, Adam W. Poff, hereby certify that on August 2, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

Francis DiGiovanni, Esquire
CONNOLLY BOVE LODGE & HUTZ LLP
The Nemours Building – 8th Floor
1007 N. Orange Street
Wilmington, Delaware 19801

I further certify that on August 2, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record and on the following in the manner indicated:

BY E-MAIL AND FEDERAL EXPRESS

Ray L. Weber, Esquire
Laura J. Gentilcore, Esquire
RENNER, KENNER, GREIVE, BOBAK,
TAYLOR & WEBER
400 First National Tower
Akron, OH 44308

Kimball R. Anderson, Esquire
Stephen P. Durchslag, Esquire
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703

YOUNG CONAWAY STARGATT & TAYLOR, LLP



C. Barr Flinn (No. 4092)
John W. Shaw (No. 3362)
Adam W. Poff (No. 3990)
The Brandywine Building
1000 West Street, 17th Floor
Wilmington, Delaware 19801
(302) 571-6600
apoff@ycst.com

*Attorneys for Dyson Technology Limited
and Dyson, Inc.*